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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application No.	09/727,835	
	Filing Date	November 30, 2000	
	First Named Inventor	Eric Edwards	
	Art Unit	2174	
	Examiner Name	Chuong, Truc T.	
Total Number of Pages in This Submission	55	Attorney Docket Number	80398P356

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ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to Group
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Response	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	<div>Return postcard and Appendix A for Appellant's Brief Under 37 CFR 1.192</div>
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s)	
<input type="checkbox"/> Certified Copy of Priority Document(s)	Remarks	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Basic Filing Fee		
<input type="checkbox"/> Declaration/POA		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Jeffery Scott Heileson, Reg. No. 46,765 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Signature	
Date	3/29/04

CERTIFICATE OF MAILING/TRANSMISSION			
I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.			
Typed or printed name	Cathy Bachmann		
Signature		Date	3/30/04

FEE TRANSMITTAL for FY 2004

Effective 10/01/2004. Patent fees are subject to annual revision.

Complete if Known

Application Number 09/727,835
Filing Date November 30, 2000
First Named Inventor Eric Edwards
Examiner Name Chuong, Truc T.
Art Unit 2174
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☐ Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT (\$) 330.00

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None
☒ Deposit Account

Deposit Account Number 02-2666
Deposit Account Name Blakely, Sokoloff, Taylor & Zafman LLP

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments
☒ Charge any additional fee(s) or underpayment of fees as required under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20.
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)				(\$)	

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
61	61*	0	\$0.00
Independent Claims	10	10*	\$0.00
Multiple Dependent			

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1202	18	2202	9	Claims in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	290	2203	145	Multiple Dependent claim, if not paid	
1204	86	2204	43	**Reissue independent claims over original patent	
1205	18	2205	9	**Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2)				(\$)	0.00

*or number previously paid, if greater, For Reissues, see below

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
2053	130	2053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	1,210	2255	605	Extension for reply within fifth month	
1404	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	330.00
1403	290	2403	145	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	1809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify)					
* Reduced by Basic Filing Fee Paid					
SUBTOTAL (3)				(\$)	330.00

SUBMITTED BY

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Complete (if applicable)

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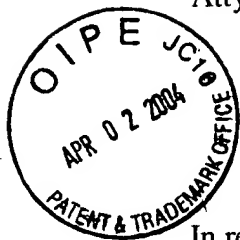
Signature

Date

8/29/04

Atty. Docket No. 080398.P356

#7
Patent 1 of 3



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:

Eric Edwards, et al.

Application No. 09/727,835

Filed: November 30, 2000

For: SYSTEM AND METHOD FOR
ANIMATED CHARACTER PHOTO-
EDITING INTERFACE AND CROSS-
PLATFORM EDUCATION ICON

) Examiner: Chuong, Truc T.

) Art Unit: 2174

) Confirmation No.: 3923

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APPELLANT'S BRIEF UNDER 37 C.F.R. 1.192

This is an appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner of Group 2174, dated October 27, 2003, which finally rejected Claims 1-61 in the above-identified application. This Appeal Brief is hereby submitted in triplicate pursuant to 37 C.F.R. § 1.192(a).

FIRST CLASS CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to Mail Stop Appeal Brief- Patents, Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450 on 3/30/04.

Date of Deposit

CATHY BACHMANN

Name of Person Mailing Correspondence

Cathy Bachmann

Signature

3/30/04

Date

I. REAL PARTY IN INTEREST

The real parties in interest are the assignees of the full interest in the invention, Sony Corporation, 7-35 Kitashinagawa, 6-Chome, Shinagawa-Ku, Tokyo, Japan, and Sony Electronics, Inc., 1 Sony Drive, Park Ridge, New Jersey 07656.

II. RELATED APPEALS AND INTERFERENCES

To the best of Appellant's knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.

III. STATUS OF THE CLAIMS

Claims 1-61 are pending in the application and were finally rejected in an Office Action mailed October 27, 2003. Claims 1-61 are the subject of this appeal. A copy of Claims 1-61 as they stand on appeal are set forth in Appendix A.

IV. STATUS OF AMENDMENTS

The application was filed with Claims 1-21 on November 30, 2000. Claims 1-21 were rejected in an Office Action mailed April 24, 2003. Appellant amended Claims 1, 6, 9, 14, 16-18 and 20 and added Claims 22-61 in response to the April 24, 2003 Office Action. Claims 1-61 were finally rejected in a Final Office Action mailed October 27, 2003. On January 27, 2004, Appellant filed a Notice of Appeal. No amendments have been submitted subsequent to the Final Rejection mailed October 27, 2003.

V. SUMMARY OF INVENTION

Appellant's invention as claimed in Claims 1-61 is directed to aiding a user in responding to quality-related problems in images. An image is loaded into image-editing equipment, and software is used to determine a set of quality-related problems of the image. An animated icon is displayed in conjunction with the image to indicate a suggested user response to one of the quality-related problems. [Specification, page 14, lines 1-14].

VI. ISSUES

- I. Whether Claims 1-6, 9-14, 16-53 and 55-60 are patentable under 35 U.S.C. § 102(e) over U.S. Patent 6,484,189 to Gerlach, Jr. et al. (hereinafter Gerlach).
- II. Whether Claims 7, 8 and 15 are patentable under 35 U.S.C. § 103(a) over Gerlach in view of U.S. Patent 5,835,087 to Herz et al. (hereinafter Herz).
- III. Whether Claims 54 and 61 are patentable under 35 U.S.C. § 103(a) over Gerlach in view of U.S. Patent 6,169,854 to Hasegawa et al. (hereinafter Hasegawa).

VII. GROUPING OF CLAIMS

- I. Group I consists of Claims 1-61 that stand rejected on the grounds presented above as Issues I, II and III. Claims 1, 9, 16-18, 24, 32, 40, 46 and 55 are independent claims. The claims of Group I stand or fall together. Claim 1 is the representative claim for Group I.

VIII. ARGUMENTS

I. Claims 1-6, 9-14, 16-53 and 55-60 of Group I are Patentable under 35 U.S.C. § 102(e) over Gerlach.

Gerlach discloses a computer system for creating and presenting interactive multimedia presentations and coursework. An expression editor is used to define variables and expressions used in a presentation. Variables that store values in either numerical or in alphabetical (string) form are used in expressions, which may be assignment expressions or conditional expressions. An assignment expression is an expression in which the presentation requests that the system assign a value to a variable, for example SCORE=100. The presentation subsequently can refer to the variable SCORE in a conditional expression to control the flow of the presentation. [Gerlach, col. 8, lines 37-55].

Gerlach also discloses an object editor which is used to create display objects for use in a presentation. The object editor displays any objects associated with a screen icon. The display objects are described as being independent visual objects which the user can place on the display screen, such as “(1) rectangles, (2) polygons, (3) lines, (4) circles, (5) ellipses, (6) text, (7) brushes, and (8) data entry fields.” [Gerlach, col. 8, lines 17-25]. Gerlach further discloses icons which represent an action to be performed at the time of the presentation’s evaluation. The icons invoke a general type of action, e.g. playback of an animation, which must be individually defined by the user. The definition may include the selection of the animation file to be played. [Gerlach, col. 9 ln. 63- col. 10, ln.3]. An animation icon is further disclosed that is used to invoke the play back of

an animation file that has been created in a conventional paint or animation software application. [Gerlach, col. 17, lines 24-29].

Claim 1 includes the limitation of determining a set of quality related problems of an image. Gerlach does not disclose this limitation. The Examiner has asserted that the variable SCORE disclosed by Gerlach represents a set of quality related problems. However, Gerlach only discloses, by way of example, that the variable SCORE is assigned the value 100. Gerlach does not describe what the particular variable “SCORE” represents, or its relation, if any, to an image or a set of quality related problems of an image. Gerlach does not establish or suggest that the variable SCORE is even tangentially related to a set of quality related problems of an image. Instead, Gerlach uses the expression editor to set variables, such as the SCORE variable, for later use by conditional expressions. Thus, determining a set of quality related problems as claimed is neither taught nor suggested by Gerlach.

Additionally, Claim 1 includes the limitation of displaying an animated icon. Gerlach does not disclose this limitation. Gerlach does not disclose the objects associated with the screen icon as being animated. Furthermore, the “animation icon” disclosed by Gerlach is not an animated icon, as claimed, because the animation icon in Gerlach is not disclosed as being animated itself, i.e. the icon does not appear to move. Instead, the “animation icon” only represents an action to be performed when the icon is clicked. Thus, Gerlach’s “animation icon” is an icon that is used to access or play back an animation file, but the “animation icon” itself is not disclosed as being animated.

Therefore Gerlach cannot anticipate Appellant's invention as claimed in Claim 1. Accordingly, the rejection of Claims 1-6, 9-14, 16-53 and 55-60 of Group I under 35 U.S.C. § 102(e) over Gerlach should be withdrawn.

II. Claims 7, 8 and 15 of Group I are Patentable under 35 U.S.C. § 103(a) over Gerlach in view of Herz.

Herz is directed to transmitting advertisements and electronic payments. Herz discloses that when a proxy server transmits an advertisement, it sends a message to an advertiser indicating that the advertisement has been transmitted to a user with a particular predicted level of interest. In return, the advertiser may transmit an electronic payment to the proxy server. The proxy server retains a service fee for itself and optionally forwards a service fee to an information server. The balance is forwarded to the user or used to credit the user's account on the proxy server. [Herz, col. 40, lines 25-43].

Claim 1 includes the limitation of determining a set of quality-related problems of an image. As discussed above, Gerlach does not teach or suggest the limitation of determining a set of quality related problems of an image. Therefore, Herz must teach or suggest the missing elements to establish a *prima facie* case of obviousness. However, Herz is directed to electronic payment mechanisms for advertising, and does not teach or suggest determining a set of quality related problems of an image. Thus, the combination of Gerlach and Herz does not teach or suggest each and every limitation of Claim 1 or claims 7, 8 and 15. Accordingly, the rejection of Claims 7, 8 and 15 of Group I under 35 U.S.C. § 103(a) over the combination should be withdrawn.

III. Claims 54 and 61 of Group I are Patentable under 35 U.S.C. § 103(a) over Gerlach in view of Hasegawa.

Hasegawa discloses a camera system that uses a synthesized voice to provide information that is not fully displayed on a display unit of a camera. The camera displays explanations and warnings regarding the camera's functions and titles on a display unit. An icon in the display unit is moved according to an 'operating mode' selected by a user, and when a 'title mode' is selected, abbreviated characters are displayed. A voice synthesizer simultaneously synthesizes voice sounds to phonetically express the camera's selected operating modes or titles, so that the user can easily determine whether the selected operating mode or title is in agreement with their intent, without having to refer to the camera's instruction manual to understand the meanings of the icons and abbreviations.

Claim 1 includes the limitation of determining a set of quality-related problems of an image. As discussed above, Gerlach does not teach or suggest the limitation of determining a set of quality related problems of an image. Therefore, Hasegawa must teach or suggest the missing elements to establish a *prima facie* case of obviousness. However, Hasegawa is directed to using a synthesized voice to communicate camera functions or operating modes, and does not teach or suggest determining a set of quality related problems of an image. Thus, the combination of Gerlach and Hasegawa does not teach or suggest each and every limitation of Claim 1 or claims 54 and 61. Accordingly, the rejection of Claims 54 and 61 of Group I under 35 U.S.C. § 103(a) over the combination should be withdrawn.

IX. CONCLUSION

For the reasons stated above, Claims 1-61 of Group I are not anticipated by Gerlach under 35 U.S.C. § 102(e), are not obvious over Gerlach in view of Herz under 35 U.S.C. § 103(a), and are not obvious over Gerlach in view of Hasegawa under 35 U.S.C. § 103(a). Appellant respectfully requests that the Board reverse the rejections of Claims 1-61 and direct the Examiner to enter a Notice of Allowance for Claims 1-61.

Fee for Filing a Brief in Support of Appeal

Enclosed is a check in the amount of \$330.00 to cover the fee for filing a brief in support of an appeal as required under 37 C.F.R. 1.17(c) and 1.192(a).

Deposit Account Authorization

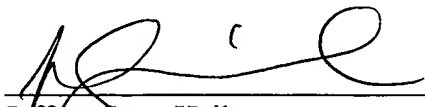
Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Appellant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP

Dated: 3/29/04

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